

3/15/15

Commissioner Vaughn,

This weekend I compiled a summary of sorts on all things related to what we talked about last Friday evening. This is for you to review so you can get an overview of the things going on. I would prefer if this is a private document as a person with means and reputation like Steve Klein may personally attempt to get me jammed up on libel (regardless if it all ends up being proven or not). This is what I have personally seen...

It has come to my attention that since sometime in 2010 the CEO of Snohomish County PUD Steve Klein may have been deliberately and intentionally sidestepping the State's public bid requirement for government contracts. To be fair, it seems Mr. Klein has not been alone in his efforts. It appears that he may have had substantial help from his friend, business associate, and former employee David Kaplan, SnoPUD subordinates Dana Toulson (now retired), PUD employee Craig Collar, PUD Chief Council Anne Spangler, and possibly even Snohomish PUD Commissioner David Aldridge.

It all started innocently enough, I think. In February 2010 Mr. Klein did something not at all unusual for a modern executive. He created an executive level job for his friend Mr. Kaplan, the Smart Grid Emerging Technology Coordinator Manager. The ridiculous name in itself should've been the first red flag. Anyway, as I said that type of stuff is normal enough in executive circles. It usually goes like this... CEO type has a friend that may be of value to the organization, he/she hires him/her on the short term in a specialized position, and a little while later the position and the person vanish. The difference in this situation is that Kaplan's "position" went away, but he never did.

What Kaplan actually did when he was an employee of the PUD under Klein was initially a mystery to me. I knew that in early 2010 he worked for a couple months to implement what is known at the PUD as the Business Architecture Board (BAB). Sounds technical right? Well not really, essentially what the BAB turned out to be was a "project portfolio" committee that was based on IT "architecture" practices. Pretty simple actually, a person that has an idea for a project has to run it past a bunch of people who work in other areas of the utility to make sure it is actually necessary and won't be disruptive to other work groups. Regardless, in whatever capacity Kaplan was employed by the District it is unquestionable that he was in a position of great access and power. Kaplan is featured smiling in photographs on the PUD's 2010 Annual Report that identify him as a member of the executive "Leadership Team."

Honestly, when I heard the BAB was the project Kaplan was developing for the District I was puzzled as to why his title was "Smart Grid Emerging Technology Coordinator Manager?" After all, I was one of the two people who actually worked in the "Smart Grid" department administering the federal ARRA Smart Grid Investment Grant. Despite the misleading Smart Grid job title, Kaplan worked directly for Mr. Klein. He did however have offices at both the downtown Everett building and the Operation Center (Ops) near Boeing where I worked. Imagine my surprise when I learned that his downtown office was on loan to him from none other than Commissioner David Aldrich. The workspace at Ops just happened to be a bit more modest and was located right next to me in the kitchen of the Data Center. I started at Ops in April in 2010, it was a promotion for me to join the Smart Grid team so I didn't mind at all that they had me sitting in the Data Center kitchen. I was just honored to be there. I was however a bit puzzled as to why the empty cube that was across from me had a nameplate for Kaplan?

I literally never saw the man. It wasn't until the spring of 2011 that he actually stopped by our little slice of heaven and introduced himself. By this time Kaplan had been done implementing the BAB methodology at the District for nearly a year. I hadn't given him any thought in that time other than to wonder why the facilities people hadn't removed his nameplate yet. I just assumed that since the BAB was implemented he no longer worked at the PUD and figured the facilities folks were never asked to remove it. We were after all literally located in a kitchen so that theory didn't seem unreasonable. But after he showed up I started to wonder... What is this guy actually doing for the PUD? It wasn't until later that year that I began to piece together what was going on.

In early October 2011 my boss mentioned something about an energy storage project. Apparently Kaplan's new consulting company 1Energy was going to design, procure, and implement a 1MW energy storage system at a PUD substation. Basically, install a battery in a shipping container at a sub. I wondered about the possible conflict of interest associated with Kaplan now working for the PUD as a contractor so soon after he had been an actual employee? But at the time I assumed Klein was a straight shooter and gave him the benefit of the doubt that he had been adhering to the laws surrounding bidding and awarding contracts and moved on. I mean for all I knew Kaplan had stopped working at the PUD right after we met in the spring of 2011. How naïve that assumption turned out to be.

The truth is that between April of 2010 and when he finished his time as a SnoPUD employee on July 29th 2011 Mr. Kaplan was actively building the foundation for his future company 1Energy services, all on the PUD ratepayers' dime. I have emails in my possession which indicate that while he was an employee of the PUD Kaplan was actively negotiating with other PUD executives (his colleagues) to enter into a non-competitively bid (or sole source) contract to build a battery storage system. [See p2 doc 1.5](#) In fact, in 2010 alone the rate payers of Snohomish County paid Mr. Kaplan a salary of \$166,000 for 10 months work as a PUD employee. [See doc 5.4](#) That's the exact amount Governor Gregoire was paid to do the people of Washington's business for all of 2010.

It is also apparent that Kaplan was extremely excited to get his new business relationship with PUD off the ground immediately after he "quit" working at the PUD on July 29th 2011. So much so that on the evening of Sunday July 31st, 2011 Kaplan sent an email to Steve Klein, Craig Collar, Dana Toulson, and Anne Spangler with a draft sole source professional services contract attached. [See p2 of doc 1.5 & doc 5.2 \(employment end date\)](#) Low and behold the format Kaplan used for the draft contract was none other than the District's internal professional services contract template. In that email he mentioned that he made some changes to the language around "Work Product" as well as the "Scope of Work" and some other insurance concerns. Interestingly he referred to a meeting he had "last fall" when addressing the "Work Product" and also specifically mentions a meeting between himself, Steve Klein, Craig Collar, and Dana Toulson on July 18th, 2011 where they finalized the "Scope of Work" for the contract. I assume this meeting took place at the PUD as Mr. Kaplan was still an active employee of the District at that time, billing the ratepayers for 10 hour days 5 days a week. For those who may not know what "work product" is, it refers to ownership of work performed under a contract or throughout the course of a person's employment. In this case Kaplan was specifically referring to his ability to own and re-sell the secret sauce he was going to develop for the PUD at the PUD's expense.

From that point forward Craig Collar was the main contact point for Kaplan. Collar was the one who drafted the language for the 1Energy "sole source" justification and presented it to his then Manager Dana Toulson for approval. [See doc 1.2](#) On September 6th, 2011 without an open discussion, published

justification, or formal resolution, the PUD Board of Commissioners approved an \$800,000 sole source no-bid contract with Mr. Kaplan and 1Energy. It was somehow quietly put on the Commission's consent agenda and approved. Check the 12 – 14 minute mark of the audio for that meeting. [See docs 1.16 & 5.5](#) Whoever was in charge of vetting and assembling the Commission Meeting Agenda for September 6th, 2011 might need to explain how the 1Energy contract was slipped into general consent agenda section without being identified as needing competitive bid waiver consideration? I'm not sure who actually oversaw the process but I do know that David Kaplan's former office benefactor Commissioner Aldrich was the President of the Board at the time. It is pretty curious that somehow a startup consulting firm (1Energy) with no previous clients, no credit history, and no formal experience with utility scale storage deployments was granted a contract with the PUD to design and build a substation battery system. This particular contract was supposed to end on 12/31/13 with the PUD receiving a bright shiny turn-key energy storage system from 1Energy. If only that was how the story ended, but unfortunately it's not.

Over the next year Craig Collar approved over \$400,000 in charges from Kaplan and 1Energy. [See docs 1A 1-16](#) Upon review of the receipts it appears that the majority of that money was used by Kaplan to solidify his business' footing and travel to investigate battery technologies. Technologies which Kaplan was supposedly already an expert on according to the sole source justification drafted by Collar and approved by Toulson in support awarding 1Energy the no bid exclusive contract in 2011. When Kaplan wasn't in Europe on trips funded by the District, [See doc 1A 14](#) he was billing the PUD for the services of a lawyer (Mr. Tom Melling) to draft a Scope of Work for a new contract that was to pay 1Energy millions to build a new and completely unrelated battery storage system. [See billings for MESA design in docs 1A 5 – 16](#) This system would be based on a new idea for a "standards based approach" and referred to as MESA. It seems Kaplan had determined at some point between September 2011 and January 2012 that his initial design for the 2011 contract was a bad one and it would be more beneficial for all involved if 1Energy instead designed a storage system with interchangeable parts. That way EVERYBODY could use it, and of course by "use" I mean everybody could hire him to implement his software to meet the standards for energy storage which he and the PUD had jointly created (which remember the PUD granted him all Intellectual Property rights to). By early 2012 the invoices the District was receiving from Kaplan reflected that he was exclusively working on his MESA design and billing the PUD for the work.

In December 2012 it became official. The PUD Board of Commissioners approved a second sole source contract with 1Energy, this time for Kaplan and his team to build MESA. Which technically he had already been designing at the PUD's expense for almost a full year. The 2012 contract wasn't an amendment to the contract entered into by the District and 1Energy in 2011 which typically would be the approach. It was an entirely new contract for 1Energy to build a different stand-alone battery system. There was a resolution this time to deem the agreement with 1Energy "special facilities" based on the previously established relationship and again awarded without a public bid. The contract was for \$3,500,000 and this time signed by Mr. Klein himself (the previous contract had for some strange reason been signed by a "non manager" delegate of the Manager of the Contracts and Purchasing department). It was also a big point of concern for the Contracts and Purchasing group that they were never asked to review the new 2012 \$3.5M contract. [See doc 2.5](#) The 2011 contract was never mentioned again and left to time out with nothing ever being delivered from 1Energy. In January 2014 Mr. Collar's assistant unceremoniously closed the 2011 contract. She indicated that after checking with Mr. Collar the 2011 1Energy contract had been replaced by the \$3,500,000 2012 contract. [See doc 1.21](#) So, for all of 2013

the PUD technically had two active contracts with 1Energy to build a single 1MW substation battery system.

In early 2013 the management of the new 2012 1Energy contract was transferred to the Smart Grid department where I work when Mr. Collar accepted a promotion to replace Dana Toulson as the PUD's Assistant General Manager of Power, Rates, and Transmission Management. Collar was rewarded for his faithful service to Klein throughout the 1Energy sole sourcing and business development process with an executive position and substantial raise. He is now officially a direct report to Mr. Klein. Throughout 2013 and 2014 the \$3.5M 1Energy contract was modified 9 times, including an increase of nearly \$1,000,000 spearheaded by Mr. Klein in an effort to change the scope and make the battery system align with a "potential" Clean Energy Fund (CEF) grant that might be offered by the State of WA. Weird how Klein knew there might be such an offering and also knew what its parameters might be. When the CEF grant was officially announced, Mr. Klein directed the Smart Grid Program to submit an application for the award with 1Energy as our primary vendor. In July 2014 the PUD was awarded the CEF grant, under which 1Energy was to be awarded contracts to complete \$9.2M more in projects as a contractor of the PUD. The PUD would then ask the State for reimbursement for 50% of all 1Energy's costs, including those incurred against the 2012 \$3.5M contract. In the end if all goes as planned Kaplan and 1Energy will receive all of the total \$7.3M cost share the PUD is eligible recover from the State. [See doc 3 for most recent 1Energy contract](#) Oh and I almost forgot, in 2014 when 1Energy couldn't work out payment terms with their vendors due to lack of credit history Mr. Klein stepped in and had the PUD ratepayers guarantee payment on their behalf. [See doc 2.8.2](#)

I know it's all a bit messy but the important thing to know is that over the past 4 plus years Steve Klein has actively steered millions of dollars in PUD and State funded work to David Kaplan and 1Energy, all without a single competitive bid. Also concerning is that for most of that time the PUD was receiving federal grant money to research battery storage for the Admiralty Inlet Tidal development project. In fact, the knowledge gained from Admiralty Inlet battery research is specifically mentioned as a point of consideration in favor of 1Energy in the 2012 1Energy contract's sole source justification and every such justification thereafter. [See doc 2.1](#) I can't help but wonder if the Feds are going to be curious if any of Kaplan's utility scale energy storage knowledge was gained at their expense. Especially since Mr. Klein recently caused a dustup of sorts when he claimed publicly that the Department of Energy reneged on a "gentleman's agreement" to continue to fund the Tidal project beyond their initial \$10M commitment. [See docs 4.1 & 4.2](#)

I can't for the life of me understand how Mr. Klein could go to the media with a straight face and imply that he has always had expectation that the Feds would kick in 50% for his tidal pet project? The contract between the DOE and SnoPUD has stated that the PUD would carry more than a 50% burden for the process for since 2013. In fact, in late 2013 there was a contract amendment signed by Klein committing the PUD to accept only a 35% contribution from the DOE for the project. [See doc 4.3](#) If I were the DOE I'd be knocking on SnoPUD's door demanding a return of all funds billed to them after the PUD officially accepted a cost share of less than 50%, since it seems pretty clear that Klein had no expectation of paying one dime more than that. Not to mention all the federal money contributed to the project in other ways such as through a grant to the UW and offerings from BPA. All that money could've been spent elsewhere and was a total and complete waste if Klein was not really planning on having the PUD be on the hook for more than \$10M. I wonder what his plan was, spend as much as necessary right up to the DOE's \$10M share to get permits? Then once he had them in hand there was no way they'd

turn him down for a straight 50% share? I can't say for sure, but what I can say is that Klein was definitely playing fast and loose on the Federal taxpayers' dime. It's all puzzling to me?

Klein even got the local paper in on vilifying the DOE. The Everett Herald stated in an October 13th, 2014 editorial that the DOE "flatly refused" a matching offer of \$8.5M to continue the tidal project and meet the \$37M in funding needs. [See doc 4.2](#) Just NOT true, the District has been on the hook for 65% since 2013. [See doc 4.3](#) the \$37M total project number would imply that the District and DOE only had a 50/50 agreement for the \$20M and we were making a first time ask of an \$8.5M cost share to get to the \$37M needed to complete the project. You would think the \$28M 65/35 deal never happened? Very strange.

Since I've put all these pieces together I can't help but ask another question over and over again. That question is, why? Why would a man such as Klein with a golden opportunity to do right by the 330,000 electricity and 20,000 or so water customers of Snohomish County PUD decide to work so hard to push State work to Kaplan and prop up 1Energy? Why keep tossing other people's resources at a tidal project then claim dirty pool when you didn't get exactly what you wanted? Money? I doubt it. He has been a chief executive for two decades and been paid quite handsomely over that time period. I also doubt he would be dumb enough to be on the receiving end of any private stock from 1Energy while working at SnoPUD, he has got to know better than that. However I do think it is interesting to note that in several publications covering his retirement Mr. Klein has noted that he may dabble in energy policy or clean energy technology in the future. [See Highlights dated 2-13-15](#) Would I be the least bit shocked if after a couple months of "retirement" Mr. Klein ends up in Governor Inslee's administration advising on utility policy? No. Would it further surprise me that if in a couple years Mr. Klein planned to join 1Energy and at that time receive some sort of stake in the company? No it would not, his poor judgment leading up to now makes me think that is a very distinct possibility.

The only non-monetary reason I can really think of for Klein to participate in something like this is ego. Mr. Klein is very legacy aware and it would appear he has an insatiable hunger to be famous in the utility industry. He is a driven man and willing to put forth relentless effort to ensure that he is a nationally renowned leader on Renewable Resources and Green Energy. It's a personal quest he has been on for decades as evidenced by the shenanigans around the proposed Sunset Falls project which date back to his time with Tacoma Power and extend to the present day. Think about it... What business did the PUD really have in funding a bridge to Mount Index Riversites? The "goodwill" investment of the District begins to make more sense when you realize that Mr. Klein has personally been after a generation project there since the 1980's.

All that said, I don't see anything wrong with a desire to be the guy who made battery technology scalable and feasible for utilities or make huge strides in tidal energy. That is unless the desire to do so is so strong that it drives you to tip toe around the edges of State contract law while the stacking the bill firmly on the backs of unsuspecting rate and tax payers. If 1Energy was as good and unique as the sole source justifications claim, there wouldn't be any reason to believe they couldn't have won an openly bid contract for these services. Especially considering the PUD does not always award contracts to the lowest bidder. If the tidal project was such a slam dunk there would be private investors lining up around the block to take the DOE's place, which isn't happening. It is my hope someday Klein will be forced to publicly address these questions. The ratepayers in Snohomish County along with the State and federal taxpayers deserve at least that much.

As a citizen who cares deeply about our great County I cannot sit back in silence while the Commission conducts a search to fill the chief executive position at our utility with another “inventive, innovative, and visionary” leader cut from the same cloth as Mr. Klein. In my opinion Mr. Klein is only inventive and innovative in the manner in which he skillfully creates manipulation schemes that when are seen through to completion only accomplish to further his personal agenda and idealistic leanings.

I believe that Mr. Klein is the perfect definition of a “confidence man.” This is evidenced by the fact that he ever so diligently and skillfully labored to earn the unwavering confidence of the Board of Commissioners early on in his time here. After having done so he proceeded to systematically leverage that trust and confidence to manipulate PUD processes and policies to favor his personal acquaintances, increase his industry profile, and ultimately put him in a position to exert his influence at a state or national level in some sort of future policy role. Can you imagine how fast MESA standards will be enacted if Mr. Klein goes unchecked and gains a position of policy influence at the state or national level? The supposed industry driven MESA standards are the perfect cover to force a technology solution on the national energy scene that is offered only by Klein’s friends at 1Energy. MESA standards are not industry standards in the true sense of the word, the billing statements prove that David Kaplan wrote the standards (or at least the foundation of what would become the standards) while being funded completely by the District either as a direct employee or later as a consultant. **See billings for MESA design in docs 1A 5 -16** I believe the fact that the MESA standards alliance is based in California is a calculated and intentional move to give the impression that these standards were organically grown and collectively developed rather than crafted by David Kaplan and his kind and generous benefactor, the SnoPUD ratepayer funded venture capitalist Steve Klein. **I recently verified this. See highlighted section of p. 3 of doc 6.1**

I do not view Mr. Klein as a leader that I would recommend following. Yes he is a leader, but so was Kenneth Lay of Enron, who is ironically the man who Klein was brought here to clean up after. Over his tenure at the District Mr. Klein has recommended taking on debt just because it was “cheap” (i.e. Build America Bonds) and created multiple “reserve accounts” which he is personally empowered to use at his discretion to retire debt as he sees fit and without Commission guidance and spend wildly on renewable projects. Frankly speaking, the reality is that Mr. Klein has actually been degrading the stable position that Mr. Ed Hanson and Mr. Jim Langus left the PUD in when he got here and expeditiously directing the residents and rate payers of Snohomish County toward the edge of a cliff, all the while pointing himself toward Olympia or the nation’s capital.

As a lifelong resident of Snohomish County I am confused as to why the Board of Commissioners are so enamored with the idea of being leaders in the renewables space? Is it something Mr. Klein has conditioned them to believe is in the best interests of the utility? It is neither necessary nor prudent that a mid-size public utility such as ours be out on the bleeding edge of renewable energy technology and research. We are a public trust and should be managed as one. The massive research and development projects SnoPUD has undertaken are not a byproduct of the **increasingly complicated power industry** as Commissioner Vaughn has repeatedly implied in her recent public quotes. But rather they are the result of a beautifully executed scheme perpetrated by an ego driven outsider and current Tacoma resident professing to be loyal to Snohomish County residents. The truth is, it is not an overly complex environment here at SnoPUD. We get 90% of our power from one very cheap provider and are only required to comply with 1 minimally invasive renewable standard, I-937. Simply put, it is reasonable to expect that a progressively minded and environmentally conscious public utility such as the PUD would

be one of the early travelers down a path of proven new clean energy technology. However we really have zero business being the actual trailblazers.

In closing. I'm concerned that the Commission will not be able select a new General Manager that will reflect the needs, will, and integrity of the people of this great County if Mr. Klein is at all involved in the process. I believe that we do not need to undertake the regional and national candidate search that Ms. Vaughn has referred to in her comments on the process of finding Mr. Klein's replacement. The last time the Commission did so the person they picked turned out to be an agenda focused ego driven individual who filled his leadership team with out of town commuting cronies, played fast and loose with contracting and reserve accounting rules, and didn't even bother to personally relocate to our service territory. I can't recall how many times I've been referred to as a "Tacoma north guy" when someone at a conference or other utility function reads my business card and sees that I work for SnoPUD. That in itself is unsettling for a person like me who takes great pride in this utility as well as the County that I live, work, and raise my kids in. Mr. Klein and his Tacoma roots may work here, but he surely doesn't live here nor does he represent the wonderful people who unknowingly fund his pet projects and friends' businesses. And for the public record, I'm a SnoPUD guy.

I believe the damage Mr. Klein and the 1Energy folks have done to the integrity of the energy storage standards development process as well as future energy storage campaigns will be felt nationwide. Klein has personally and directly assisted Mr. Kaplan and 1Energy with making inroads at other large utilities around the country while indirectly influencing 1Energy's overall corporate feasibility through guaranteeing direct payment to their sub-contractors by the PUD when their credit is not sufficient. **See doc 2.8.2 & page 3 of doc 6.2** Which is unfortunately more often than not. All of 1Energy's relationships with other utilities and companies around the nation and world will now surely be strained, if not broken. Leaving our proud utility's name forever associated with the fraud perpetrated. We deserve better. I love this County and am extremely proud to call it my home.

I have electronic and paper documentation to back up the claims I have outlined above. I am hopeful that the Commission will take immediate action to ensure that nothing is deleted from District servers until the concerns I have raised can be fully addressed and/or investigated by either internal or external parties as appropriate. Thank you for your time.

Anthony Curtis

Update 3/26/15 –

Ms. Kinerk,

Since I initially drafted this for Commissioner Vaughn a few new things have come to my attention...

- (1) David Kaplan worked for Rogers Weed at the WA State Department of Commerce immediately before beginning work as a full time employee at SnoPUD in 2010. I'd be interested to know how Kaplan's employment at SnoPUD came to be? Add to that the fact that Rogers Weed's first stop after being the Director of Commerce was as an executive for Kaplan at 1Energy working on Clean Energy Fund related 1Energy projects and it seems a bit questionable to say the least. Especially w/ Daniel Malarkey staying on at Commerce until just after the Clean Energy Fund was approved by the legislature (in or around June 2013 for the 2014 – 2015 biennium) then defecting to 1Energy to work w/ Rogers and Kaplan again. Coincidence? Now they (Kaplan,

Weed, and Malarkey) all work together leveraging their CEF and SnoPUD relationships to lay the foundation for a groundbreaking TESLA partnership that will just so happen to be entered into just a day after the PUD Commission agrees to pay for it? (How lucky for them!) See pink highlighted bullet on page 1 of doc 6.6 Which just happens to be 2 weeks before Steve Klein “retires?” Not to mention that Rogers’ brother Russ Weed is the chief counsel for another of the CEF recipients UniEnergy Technologies. It’s a big back scratching mess to say the least.

- (2) Tom Melling (Executive VP & Chief Counsel for 1Energy) has recently worked with the PUD’s Chief Information Officer Benjamin Beberness to enter into a no-bid contract w/ a Cyber Security Corporation called Signal Lift of which he (Melling) is identified as one of the “governing people” on the WA State business licensing search page. See doc 6.3 Equally troubling though is that the majority of Signal Lift’s correspondence with Beberness has come from their VP of Sales Gordon Matlock who just happens to be the husband of the PUD’s Government Relations Director Jessica Matlock (who is on the PUD Executive Leadership Team with Beberness). See all of docs 6.4, 6.7, and page 2 of doc 6.5 where you can see that Gordon Matlock struck his name from the signature line Like 1Energy, Signal Lift is a startup w/ no clients, references, credit, etc... Seems all they have to offer to validate their abilities is personal relationships with PUD heavy hitters and an opportunity to be “leaders in the defense of this key critical infrastructure.” See highlighted section of page 7 of doc 6.4 There is a tentative plan in place to have the PUD/Signal Lift contract last up to 2 years and escalate upwards of \$500K. Beberness is planning to structure it so that it is a small amount which he can approve personally only to later have the Commission approve extensions when it escalates up. Extensions will be based on the value gained thru the initial agreement entered into between PUD/Signal Lift. See page 3 of doc 6.4 Seems like a good way for a startup firm such as Signal Lift to get their “foot in the door” at PUD so to speak.